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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1334th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 July 1994, at 3 p.m.

Chairman: Mr. ANDO

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GE.94-17640 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Cyprus (CCPR/C/32/Add.18; HRI/CORE/1/Add.28) (continued)

1. At the invitation of the Chairman, the members of the delegation of Cyprus took places at the Committee table.

2. The CHAIRMAN invited the delegation of Cyprus to reply to the questions asked orally by members of the Committee to supplement those in section I of the list of issues.

3. Mr. STAVRINAKIS (Cyprus) said that since some of the questions asked required very careful consideration, he would only reply partially. The other replies would be provided either as part of the third periodic report, which was under preparation, or in correspondence that would be sent to the Committee.

4. The delay in submitting the report had been due not to lack of interest or negligence on the part of the authorities, but to the increasingly heavy workload of the officials responsible for relations with the Committee. He assured the Committee, however, that the Cypriot authorities would spare no effort to avoid delays in the submission of future periodic reports.

5. The questions on the Covenant's status, which of its provisions could be directly invoked and the machinery for doing so were among the ones requiring a more thorough examination. After returning to his country, he would propose that a special committee should be set up to study those questions, and he would transmit the Committee's concerns on those points.

6. The questions on nationality, naturalization and immigration would be referred to the competent committee. The Committee had not yet begun its work but should be operational within a few months.

7. Despite the fact that no communication from a Cypriot citizen had been submitted under the Optional Protocol, it could not be concluded that the public was not aware of the existence of the Covenant and Protocol. More probably, lawyers had chosen to refer to other instruments, such as the European Convention on Human Rights. All international instruments had to be ratified through a special law, and all laws were published in the official gazette. He would suggest to the authorities that Cyprus' periodic reports should be published in English and Greek.

8. In his opinion coexistence between the Greek and Turkish communities was certainly possible, provided that the island was demilitarized. He was personally in favour of peaceful coexistence between the two communities, as had been the case in the past, and he hoped that the conditions necessary for coexistence would be achieved in the near future. However, there were few

Turkish Cypriots living in the regions actually under Government control, which was perhaps the result of propaganda in the northern part of the island aimed at making people believe that coexistence was impossible. Yet, those persons enjoyed the same rights as other citizens.

9. He would like to reply to a question asked about conscientious objection, which was not directly within the purview of the Covenant articles covered in section I of the list. He assured the Committee that the non bis in idem principle was respected in Cyprus and that, when conscientious objectors were tried, it was for a continuing offence. Another question had concerned the possibility of amending the legislation on the national guard, which required conscientious objectors to serve for a longer period than the period of military service; he explained that conscientious objectors must first enlist before invoking the above-mentioned provision, which did require them to perform service that was longer but unarmed and without a military uniform. In the cases of concern to the Committee, the individuals had not invoked that provision and had simply refused to enlist. Generally speaking, the Cypriot authorities felt that the gap between the duration of military service and service performed by conscientious objectors was a reasonable one in view of the situation prevailing in the island. In order to be effective the national guard must have sufficient troops. If not, it would be unable to resist a further invasion by Turkey, which had concentrated occupation forces in the northern part of the island. The authorities generally took it as their guiding principle that every able-bodied individual should offer his services to his country.

10. Regarding the death penalty, the legislation on the Military Criminal Code and Procedure Law stipulated that only high treason and piracy, as violations of international law, carried the death penalty. As a result of a recent series of atrocious murders, there was growing popular support for the reintroduction of capital punishment for crimes other than those currently laid down in legislation. The Cypriot authorities thought differently but, in view of that trend, they did not deem it timely to consider the total abolition of the death penalty.

11. Replying to a question on the powers and functions of the Ombudsman, he said that the discretionary nature of the Ombudsman's powers could in no way be considered arbitrary. The Ombudsman's powers and functions were clearly defined by law. The proposed amendment to the relevant legislation had been aimed at clarifying one point. It had not been clear whether the Ombudsman was only competent in cases involving an administrative complaint, or whether he could also take action in cases of police abuse, for example. The law had been amended to enable the Ombudsman to deal with the latter type of case.

12. Concerning Government policy on the right of asylum, entry into the territory of Cyprus was governed by the law relating to immigration, currently being reviewed, and the law relating to extradition. Under the latter, no one could be extradited to a country in which he or she would be liable to the death penalty. He had no knowledge of the case of the two Somali citizens who

had allegedly been refused asylum in Cyprus, but he presumed that the authorities had not considered them to be cases involving the right of asylum.

13. Replying to another question, he said that the right of a public servant to join a political party was subject to a restriction, namely that expressing a particular opinion should not directly conflict with the performance of the public servant's duties. Public servants were, for example, forbidden to divulge information they had obtained in the performance of their duties.

14. Regarding equality between men and women, he said that a committee on matters relating to women's rights had been set up some years earlier; it was attached to the Ministry of Justice, and several non-governmental organizations (NGOs) took part in its work.

15. Concerning measures such as the establishment of separate electoral lists for the Greek and Turkish communities and the right to choose to belong to either community, some of those provisions had not previously existed in the Constitution but had been introduced at the insistence of the Turkish community. As a result, the Turkish community was enjoying rights that were disproportionate to its size.

16. A number of the constitutional provisions were not currently being implemented; they included the provisions on the Supreme Constitutional Court and the Supreme Court, owing to the merging of the two bodies. Likewise, in view of the necessity principle, the provisions on the Greek Community Chamber were not being implemented. The Cypriot authorities would provide the Committee with further information on that subject in due course.

17. He agreed that some provisions of the Criminal Procedure Act were contrary to the Constitution. However, those provisions, in particular the one stating that authorization was necessary in order to lodge an appeal, were not being applied. Any person who wished to challenge a judicial decision affecting him could now do so directly.

18. In reply to the questions on imprisonment for debt, he elaborated on the situation as described in paragraph 50 of the report (CCPR/C/32/Add.18).

19. Some members of the Committee had expressed surprise at the delay in the Law Commissioner's report on the legislative reforms. When the Law Commissioner's Office had been established in 1972, the Commissioner had been given the Herculean task of translating all the colonial legislation into the national language. The translation of the texts had recently been completed, and it was only in the last few years that the Law Commissioner had been able to concern himself with legislative reform.

20. Regarding moral turpitude and dishonesty in connection with the electoral provisions, he said that the terms were synonymous. He would return to them later.

21. The CHAIRMAN invited the Cypriot delegation to reply to the questions in section II of the list of issues (M/CCPR/94/28), which read:

"II. Right to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 8, 9, 10, 11 and 14)

(a) In view of the fact that no death sentences have been pronounced since 1978, either under the Criminal Code or the Military Criminal Code and Procedure Law, is any consideration being given to the abolition of the death penalty? In particular, please elaborate on the current steps referred to in paragraph 34 of the report.

(b) What are the rules and regulations governing the use of weapons by the police and security forces? Have there been any violation of these rules and regulations and, if so, what measures have been taken against persons found guilty of such acts and what has been done to prevent a recurrence? What training programme has been elaborated for law enforcement officials in order to inform them of their obligations under the Covenant?

(c) During the period under review, have there been any complaints of torture or other inhuman or degrading treatment or punishment or arbitrary detention? If so, has any investigation been carried out in respect of such violations and has any action been taken to punish those found guilty of such acts? What is the role of the Commission of Inquiry and the Ombudsman in investigating complaints of torture and ill-treatment of prisoners?

(d) What role does the judiciary play in ensuring that police maintain minimum standards of treatment of persons held in custody?

(e) What progress has been made in investigating the fate of the 1,618 persons missing since the conflict began in 1974?

(f) How soon after arrest can a person contact a lawyer, and how quickly is the person's family informed?

(g) Are the United Nations Standard Minimum Rules for the Treatment of Prisoners complied with and are the relevant regulations and directives known and accessible to persons deprived of their liberty? Has the bill referred to in paragraph 49 of the report regarding prisons, prisoners and discipline, been adopted? Do women prisoners enjoy the same conditions, rights and privileges as male prisoners?

(h) What guarantees are there for the independence and impartiality of the judiciary?

(i) Has any further action been taken to counter the delay in criminal trials mentioned in paragraph 64 of the report?

(j) Please clarify the meaning of the statement in paragraph 57 of the report that the absence of a general scheme of legal aid has not been a source of injustice in practice. What steps have been taken to bring Cypriot domestic law in conformity with the requirement of free legal assistance to criminal defendants provided for under article 14, paragraph 3 (d), of the Covenant?

(k) How is the right protected by article 14, paragraph 6, of the Covenant to compensation for a miscarriage of justice ensured?

(l) In what circumstances can a judgement debtor be imprisoned for failing to meet the debt when that debt arose originally from a contractual obligation (see paras. 50-51 of the report)?"

22. Mr. STAVRINAKIS (Cyprus) said that he had already replied to question (a). Replying to question (b), he said that the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials were applicable in Cyprus. Similar provisions were found in the Police Law and the police standing orders. The use of violence was permitted only for apprehending suspects or preventing the escape of persons in custody, for suppressing riots, for self-defence or in an emergency. The use of firearms was governed by the Police General Instructions, the text of which was available for consultation by members.

23. He had, for the most part, already replied to question (c). Proceedings were under way in two cases, and the Commission of Inquiry was considering a number of complaints. Inquiries were public and everyone who wished to testify could do so. The inquiry was a quasi-judicial procedure, and the report issued by the Commission at the conclusion of the investigation procedure was submitted to the Council of Ministers, which decided whether or not to publish it. If the inquiry indicated that the offences committed were criminal ones, the file was transmitted to the Office of the Attorney-General, who took the appropriate steps.

24. In reply to question (d), he said that the role of the judiciary was to direct inquiries whenever a complaint was made regarding conditions of detention. A judicial representative could visit the prisons to acquaint himself with the conditions of detention. The Assize Court was also empowered to apply a procedure whose purpose was to ensure that no one was detained without trial.

25. Replying to question (e), he said that the tragic question of the missing persons remained unresolved. Most of the people involved had been arrested by the Turkish army and were known to be alive in the occupied area or in detention in Turkey. Since 1974, despite the adoption of a number of resolutions by the General Assembly and the Commission on Human Rights, Turkey had been refusing to provide the families of the missing persons with any information on their fate, in violation of the 1949 Geneva Conventions and

the international instruments on human rights. The Turkish Government insisted that the missing persons must be considered dead, whereas there was irrefutable evidence to the contrary.

26. In its report of 10 July 1976, the European Commission of Human Rights had found that Turkey was responsible for the fate of persons in its custody, but that there was nothing to prove that the Greek Cypriot prisoners declared missing had been executed. In a report published in April 1992, the European Commission had categorically stated that the Greek Cypriots who were still missing had been unlawfully deprived of their liberty by Turkey in 1974, and that by failing to account for the fate of those persons, Turkey had violated article 5 of the Convention. In 1981, the United Nations General Assembly had established a Committee on Missing Persons in Cyprus. Unfortunately, the Committee's investigations had been hindered by lack of cooperation from Turkey and by its own restrictive terms of reference. With a view to accelerating the process, the Secretary-General of the United Nations had proposed in October 1993 that a consensus should urgently be reached on the criteria to be applied in order to enable the Committee to conclude its investigations. The Government of Cyprus had responded positively to the Secretary-General's proposal and reiterated its full support for the efforts to elucidate the fate of every missing person. It was to be hoped that the issue of missing persons in Cyprus, a purely humanitarian question, would not be linked to the overall solution of the Cyprus problem and that it would be resolved to the satisfaction of the families involved.

27. The matter referred to in question (f) was not regulated by law, but in practice a lawyer was contacted before the arrested person was brought before the court. Under the Constitution, a person must be brought before the court within 24 hours of his arrest. Therefore, a lawyer or the person's relatives were informed of the arrest within the same period. A bill was before the House of Representatives to regulate the arrest and detention of persons, including the right to inform a lawyer, relatives and a medical officer within a specific time. The objective of the bill was to prevent torture and ill-treatment of detainees.

28. Regarding question (g), he said that the Prisons Department had published and distributed, in three languages (Greek, English and Arabic), guidelines for the treatment of prisoners which laid down all prisoners' fundamental rights. The bill referred to in paragraph 49 of the report had been adopted. There was no discrimination on grounds of sex in prisons, women having the same rights as men.

29. In reply to question (h), he referred members to paragraphs 9.1 to 9.8 of the document containing additional information, which had been distributed.

30. Regarding question (i), he said that no steps had been taken to counter delays in criminal trials, but a special study of the matter by a Supreme Court judge had indicated that such delays were not serious. The number of judges had been increased, and the Council of Ministers had approved a bill dividing the Supreme Court into a Supreme Constitutional Court and a Court of Appeal, a development which should facilitate the administration of justice.

31. Turning to question (j), he said that the matter of legal assistance was not regulated by legislative or administrative measures, but in practice free legal assistance was granted by the courts to any accused person who applied for it, with a view to ensuring that person an appropriate defence. Legal assistance had even been granted in a public inquiry to persons who were not strictly speaking accused but might simply be affected by the inquiry.

32. Concerning question (k), he referred the members to paragraphs 9.16 and 9.17 of the document containing additional information. He had already replied to question (l).

33. The CHAIRMAN thanked the Cypriot delegation for its replies to the Committee's written questions and invited members to ask the delegation additional questions.

34. Mrs. CHANET, returning to the question of imprisonment for debt, asked whether, as the delegation had indicated, the fact that a person might be imprisoned for civil debt after an inquiry meant that no judicial decision was involved. She would also like to know what steps were taken to ensure that the guarantees laid down in article 11 of the Constitution and article 9 of the Covenant were respected.

35. Concerning the death penalty, she referred to paragraphs 34 and 35 of the report. As to accession by Cyprus to the Second Optional Protocol to the Covenant, she pointed out that it was possible to express a reservation stating that capital punishment could be imposed in time of war or military occupation for the most serious crimes, which would appear to correspond to the capital offences under the Military Criminal Code of Cyprus. The delegation might indicate whether the Government of Cyprus was planning to ratify the Second Optional Protocol subject to such a reservation, which would not require any major changes in legislation.

36. Mrs. EVATT, also referring to the question of imprisonment for debt, asked whether it was possible in Cyprus to order an attachment of a person's salary or assets rather than imprison him, since imprisonment was not really a guarantee that the debt would be repaid.

37. She welcomed the establishment of a commission to investigate ill-treatment of detainees by the police, but was puzzled at the apparent lack of proceedings against those responsible for the ill-treatment and wondered just how independent the investigatory bodies were. She would like to know whether the commission of inquiry took into account the Basic Standards on the Use of Force and Firearms by Law Enforcement Officials and whether it had considered the issue of education and training of police officers at all levels.

38. Article 9 of the Constitution contained clear provisions on arrest and detention, but she wondered whether they were fully applied in practice and whether the bill before Parliament might change current practice. She would also like information on acts of violence against women, assuming the Cypriot authorities were in possession of data on that type of violence.

39. Mr. BRUNI CELLI, referring to article 7, paragraph 3, of the Constitution as reproduced in paragraph 28 of the report, said he realized that the State must sometimes use force to preserve public order, but he wondered whether all the cases laid down in Cypriot legislation were justified and whether solutions other than putting someone to death did not exist. He would also like to know whether the provisions in question were implemented directly in practice and whether inquiries were undertaken to ensure that their implementation had been absolutely necessary.

40. Regarding the implementation of article 7 of the Covenant, Amnesty International had reported specific cases of torture and ill-treatment, concerning which he would like further information. It appeared that an investigation had led to the exoneration and release of the police officers arrested. That was alarming information considering that Cyprus had ratified the European Convention for the Prevention of Torture and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

41. Mr. PRADO VALLEJO said that he shared Mr. Bruni Celli's concern about the cases of police abuse; he would like to know whether investigations had been made and, if so, what their results had been.

42. Concerning the implementation of article 6 of the Covenant, he referred to paragraph 28 of the periodic report and asked how a case of jure gentium might entail the death penalty under article 7, paragraph 2, of the Constitution. He would like a clarification of that point. The Covenant did not prohibit capital punishment, but it stipulated that capital punishment should be imposed only for the most serious crimes. Paragraph 30 of the report stated that the death penalty could not be pronounced on persons under the age of 16. However, the age-limit set in the Covenant was 18. Were the Cypriot authorities planning to bring the legislation into line with the provisions of the Covenant?

43. Regarding the implementation of article 9 of the Covenant, he referred to paragraph 43 (6) of the report, which stated that the period of remand in custody could be renewed every eight days and that the total period of remand in custody could be as much as three months. He wondered whether such provisions were acceptable, given that the length of remand in custody generally did not exceed 48 or 72 hours in democratic countries. He would also like to know whether Cypriot legislation provided for the remedies of habeas corpus and amparo and, if so, how the exercise of such remedies was guaranteed.

44. Regarding the question on imprisonment for debt, paragraph 50 of the report stated that when a debtor neglected to pay a debt, the legislation applied in Cyprus was quasi-penal. However, it would seem more logical and more effective, in cases of failure to repay a debt, to seize assets rather than imprison the person. He was puzzled at the existence in Cypriot legislation of such provisions, which were contrary to those of the Covenant.

45. Mr. WENNERGREN reverted to the difficulty of indicting police officers for ill-treatment of detainees. One of the reasons why it was so difficult to prove police officers' responsibility was that Cyprus attached prime

importance to the principle of the presumption of innocence. Police officers were obviously reluctant to testify against their colleagues. One of the ways of resolving that problem would be to introduce the concept of collective responsibility in cases of ill-treatment. That method would be effective and would definitely act as a deterrent.

46. Regarding article 14 of the Covenant, the Cypriot delegation had said that no conscientious objector had asked for a reduction in the duration of military service. He would like to know whether conscientious objectors were able to ask the Supreme Court to determine the compatibility of the legislation on conscientious objectors with article 28 of the Constitution.

47. Mr. NDIAYE pointed out that the legislation relating to article 11 did indeed establish imprisonment for debt. That was proved by the existence of a provision to the effect that the creditor had to pay for the debtor's subsistence during detention.

48. Mr. POCAR said that he was concerned at the provisions of article 7, paragraph 3, of the Constitution (see report, para. 28). The cases justifying the use of force were not defined sufficiently clearly. He also wondered what interpretation should be given to the Police General Instructions (see delegation's replies to section II of the list of issues, document without a symbol), which appeared to give police officers considerable latitude. In paragraph 3 of its general comment on article 6 of the Covenant (CCPR/C/21/Rev.1), the Committee had made it clear that the law must strictly control and limit the circumstances in which a person might be deprived of his life by the authorities of the State. He would also like the delegation to provide specific examples of how the instructions had been interpreted.

49. Cypriot legislation set the age of criminal responsibility at seven, which was too low in his view. That legislation was not in conformity with the provisions of article 24 of the Covenant.

50. Mr. AGUILAR URBINA said he would welcome clarification of the meaning of article 7, paragraph 2, of the Constitution. The text reproduced in the report seemed to stipulate that the death penalty could be pronounced for offences against international law!

51. Concerning article 7, paragraph 3, of the Constitution (report, para. 28), which stated that deprivation of life could be inflicted in defence of person or property, he asked how protection of property could justify deprivation of life. In reference to chapter 154, section 27 (2), of the Criminal Code, he asked how the death penalty could be imposed on individuals over 16 years of age (report, para. 30), while the voting age was 21. Paragraph 32 of the report (CCPR/C/32/Add.18) referred to the discretion of the court in imposing the death sentence. He would like to know who determined the court's discretionary power.

52. Referring to paragraph 35 of the report (CCPR/C/32/Add.18), he noted that the death penalty could be imposed on military commanders for capitulation. It might be asked whether it was fair to sentence to death a military commander who had surrendered in desperate circumstances in order to save the lives of his men.

53. He wondered how a provision on imprisonment for debt could exist in a country whose legislation made provision for attachment of salaries and property.

54. He was also disturbed at what had been said about conscientious objectors. The fact that they could be convicted more than once for the same offence was inadmissible, especially as their willingness to be convicted several times tended precisely to prove their sincerity.

55. Mr. FRANCIS asked the delegation to provide a breakdown of the prison population by sex.

56. Paragraph 48 of the report (CCPR/C/32/Add.18) emphasized the aim of the penitentiary system, namely, the social rehabilitation of prisoners. He would like to know whether a coordinated programme existed for that purpose, including a staff training programme.

57. The CHAIRMAN invited the Cypriot delegation to reply to the additional questions asked orally by members of the Committee.

58. Mr. STAVRINAKIS (Cyprus), referring to the question of imprisonment for debt, noted that one member of the Committee had asked whether debtors were informed of their rights. No one could be convicted in absentia in Cyprus. In debt trials, the accused had to participate by providing information on his or her financial means. In practice, the court inquired into the financial means of the accused with a view to arranging for repayment of the debt in instalments. The incarceration procedure was only set in motion if the debtor refused to pay back the debt.

59. The death penalty was authorized by the Constitution, but it could only be associated with a particular category of crime pursuant to a law. The Constitution made the following acts punishable by death: premeditated murder, treason and certain offences against international law. There was a law on treason, but none on offences against international law, and the death penalty for premeditated murder had been abolished. The Government was also planning to abolish the death penalty for treason and for offences against the Military Code. In any event, the death penalty had not been carried out in Cyprus for the last 30 years, and had not even been handed down since 1978. Concerning the use of firearms by members of the security forces, another topic raised orally, the rules he had mentioned earlier were probably no longer in force and the current legislation had not yet been translated into English.

60. Concerning the acquittal of the police officers accused of ill-treating detainees, he himself had once been in charge of an inquiry into a similar case and had found evidence of ill-treatment. The proceedings referred to by Mrs. Evatt had not been instituted, for lack of sufficient proof. The Attorney-General was the only authority competent to drop proceedings.

61. He acknowledged that the age of criminal majority set by Cypriot legislation (seven years) was very low. The Government intended to bring the legislation on that matter into line with the provisions of the Covenant.

62. Remand in custody was always ordered by a court, only rarely for the maximum time period set by law, and generally for only a few days. The remedy of habeas corpus was available in cases of arbitrary arrest or detention.

63. Statistics had been requested on cases of violence against women. He had been in the Parliament when the bill on violence against women had been considered; the data presented had unfortunately shown that the incidence of violence against women was quite high in Cyprus. It was difficult to obtain precise figures, for the victims of domestic violence generally hesitated to report it, but things had begun to change with the establishment of an NGO concerned with protecting the victims of domestic violence. Figures would be provided in the third periodic report or perhaps in a supplementary report.

64. One member had asked how many complaints of ill-treatment had been received by the Commission of Inquiry. Upon establishment, the Commission had received 22 complaints but had declared itself competent for only 16 of them. It continued to hold hearings, and he could not say when it would be submitting its report.

65. Conscientious objectors were entitled to challenge the constitutionality of the law that provided for civilian service of 42 months instead of the 26 months of regular military service, but no one had done so to date.

66. One member had asked whether there was a court competent in matters of conflict, violence and ill-treatment within the family, other than the family court judge dealing with divorce issues, for example. Cases of violence within the family were heard by the regular criminal courts, which nevertheless ensured that minors' interests were duly protected, for example by holding proceedings in camera. Parole officers and social workers were also responsible for preparing investigatory reports on family-related problems.

67. A very interesting question had been raised on the nature of continuing offences. He would reply later on, for there were many such continuing offences under Cypriot criminal legislation.

68. He remained at the Committee's disposal for any further information it might need.

69. The CHAIRMAN invited the Cypriot delegation to reply to the questions in section III of the list of issues, which read:

> "III. Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, and right to participate in the conduct of public affairs (arts. 12, 13, 17, 18, 19, 20, 21 and 22)
>
> (a) What freedom do Greek and Turkish Cypriots residing in the Government-controlled area have to leave and return to that area? Are persons who left their homes in the Government-controlled area to go to the Turkish controlled area free to return?

(b) What legal provisions permit interference with the exercise of rights protected by articles 15 to 17 of the Constitution (see para. 68 of the report)? In particular, in what circumstances may a warrant for entry of a dwelling house be issued?

(c) Please provide additional information about the decision in the case Police v. Georgiades, referred to in paragraph 72 of the report, and of the legal provisions applied in that case.

(d) Has the draft legislation relating to information on public matters and the protection of official documents been enacted and, if so, elaborate on the application in practice of its provisions, in particular those relating to 'secrecy on matters of a sensitive nature including the protection of information relating to the private life of citizens' (see paras. 71-72 of the report).

(e) Please provide information concerning registration or other procedures relating to the recognition of religions or religious sects by the authorities, and comment on the application in practice of article 18, paragraphs 2 and 8, of the Constitution (see para. 73 of the report).

(f) Please provide information about laws recognizing the right to conscientious objection to military service, as referred to in article 10 of the Constitution, and whether that right extends to objection on grounds other than religious belief.

(g) Please provide information on the restrictions imposed by law on the exercise of the freedom of expression (see para. 74 of the report).

(h) Please comment on the controls exercised on the freedom of the press and mass media in accordance with the law and on the functions and activities in that regard of the Press Council referred to in paragraph 75 of the report.

(i) Please provide information on laws and practices concerning public meetings and the establishment of associations, including political parties.

(j) Please explain how the requirements of article 63 (1) of the Constitution concerning separate electoral lists is compatible with the principles of universal and equal suffrage. What are the grounds of disqualification for registration as an elector under article 63 (2) of the Constitution (see para. 96 of the report)?"

70. Mr. STAVRINAKIS (Cyprus), replying to question (a), said that Greek Cypriots and Turkish Cypriots residing in the Government-controlled area were free to leave and return to that area. The same was true of all those who had left their homes in the Government-controlled area to go to the area occupied by the Turkish army. The latter were mainly Turkish Cypriots considered to be citizens of the Republic with the same rights and responsibilities as the Greek Cypriots. It should be noted, however, that Turkish Cypriots residing

in the southern part of Cyprus, which today constituted the free area, had been forced by the Turkish army to move to the Turkish-occupied area, the idea being to create a "Turkish homogeneous area", which had never existed, in order to cultivate the myth that the two communities could not live peacefully together and justify demands for partition of the island. At the same time, the Turkish forces had expelled 200,000 Greek Cypriots, representing 82 per cent of the population, from the occupied area and had prevented them from returning to their homes and properties to date. After the Turkish Cypriots had been forced by the Turkish army to move to the occupied area in the north, the Government of Cyprus had undertaken to protect all abandoned Turkish Cypriot properties pending the return of their owners. A Central Committee and a Service for the Protection and Management of Turkish Cypriot Properties, had been established under the Ministry of the Interior, in order to protect those properties and utilize them temporarily for the needs of the displaced Greek Cypriots. Thus all Turkish Cypriot property remained registered in the name of its rightful owners and was managed on a temporary basis pending a solution to the political problem.

71. Regarding the questions on protection of privacy, interference with the rights protected by articles 15-17 of the Constitution was permitted only to the extent provided by those articles, and any legal enactment providing otherwise was unconstitutional. He drew the Committee's attention to article 17, which limited interference with communication and correspondence to two instances only: individuals serving a prison term and individuals having declared bankruptcy. A bill was pending before Parliament to introduce judicial supervision of interference in those limited cases. The searching of persons and places was regulated by articles 25-34 of the Criminal Procedure Law.

72. The Committee had requested additional information on the case Police v. Georgiades. During the trial of Mr. Georgiades for perjury and related offences, the trial court had ruled admissible a conversation between the accused, a psychologist, and his client during a medical examination; the conversation had been overheard through the use of an electronic listening and recording device previously installed without the knowledge of the psychologist or the client and hidden in the room. On the application of the accused, the trial court had referred to the Supreme Court for its opinion, under section 148 (1) of the Criminal Procedure Law, on three questions of law: whether, in view of the provisions of article 17 of the Constitution, the evidence of an advocate with regard to material overheard by means of an electronic device was admissible evidence; whether, in view of the provisions of article 15 of the Constitution, the said evidence was admissible; whether the production of that evidence constituted a contravention of the rights of the accused under articles 15 and 17 of the Constitution; and, if so, whether such evidence was admissible. The Court had held that the evidence so obtained was inadmissible in the light of the provisions of articles 15, 17 and 35 of the Constitution. The entire decision appeared in the annexes to the second periodic report.

73. The draft legislation governing information on public matters and the protection of official documents, referred to in paragraph 71 of the report, had not yet been enacted, and it was therefore not possible to provide the details requested in section III (d) of the list of issues.

74. Regarding question (e) on registration or other procedures relating to the recognition of religions or religious sects by the authorities, there was no law providing for the registration of religions or religious sects. If any sect wished to be registered as an association, it could apply under the relevant law. Article 18, paragraph 8, was fully respected.

75. He had already replied to question (f) on conscientious objection in his earlier replies to questions raised by the members.

76. Restrictions on the press (question (g)) were mainly to be found in Criminal Code provisions and related to insulting the Head of State (sect. 46 A), seditious conspiracy and publication with seditious intention (sect. 47), publication of false news (sect. 50), publication of news relating to defence works (sect. 50 A), espionage (sect. 50 C), insulting the army (sect. 50 D) and encouraging violence and promoting ill will (sect. 51).

77. The Press Council (question (h)) had been set up under the Press Law 1989 (Law No. 145), the full text of which would be reproduced in the next report. The main functions of the Council were to safeguard respect for freedom of the press, defend the rights and interests of the Cypriot press, regulate matters of professional ethics, inquire into complaints against newspapers and journalists, publish periodic reports as to its functions and issue and revoke press accreditation for journalists. The same law protected the rights of journalists, who were free to seek and impart information, and made it obligatory for Government officials to provide journalists with information unless doing so would affect the security of the Republic, the constitutional and public order, public morals or the rights of third persons. The Law regulated the issue and publication of newspapers, the operation of press agencies and the operation of printing machines.

78. Regarding question (i), associations were established under the relevant law, which provided for the registration of associations. Charitable associations could be registered under the Charities Law. Non-profit associations could also be registered under the Companies Law, as charitable companies which could not use the word "limited". There was no law providing for the establishment and registration of political parties, but there was a law providing for the registration of property belonging to political parties: the Political Parties (Acquisition, Possession and Disposal of Immovable and Movable Property) Law 1989.

79. Concerning voting rights (question (j)), the requirement of separate electoral lists for the Greek and Turkish communities under article 63 (1) of the Constitution was not incompatible with the principle of universal and equal suffrage. It did not deprive any Greek or Turkish citizen of the right to vote. The system should be viewed in the light of the constitutional structure of Cyprus, which was in a way unique. It provided for a unitary State, yet operated in many respects as a bicommunal federation. There were provisions in the Constitution for the election of a President by the Greeks, a Vice-President by the Turks and members of the House of Representatives by the Greeks and Turks according to a specific percentage. Religious minorities were given the right to express their views in the House by electing their own representatives. In 1959, when the first election for President, Vice-President and members of the House of Representatives and the Communal

Chamber had been held, a law entitled the Registration of Electors Law had been enacted. The Law had divided Cyprus into six Greek and six Turkish constituencies. Under the Law, voting conditions had been the same for Greeks and Turks alike. However, due to internal problems in 1963 there had been no election of a Turkish Vice-President and Turkish members of the House of Representatives, and the Greek Communal Chamber had been dissolved. Temporary provisions had been applied until 1980, when a new electoral law had been enacted. The new law was of general application and covered the election of the President and Vice-President, members of the House of Representatives and local authorities. The new law made no mention of separate electoral lists for the two communities. Voting requirements were comparable to those of the preceding law. It should be mentioned that the presidential and parliamentary elections were compulsory.

80. The CHAIRMAN thanked the Cypriot delegation and invited the members of the Committee to prepare their questions for the following meeting.

The meeting rose at 5.55 p.m.